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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,432	08/19/2003	Robert A. Dunstan	110349-133958	6990
25943	7590	11/26/2008	EXAMINER	
SCHWABE, WILLIAMSON & WYATT, P.C.			BONZO, BRYCE P	
PACWEST CENTER, SUITE 1900			ART UNIT	PAPER NUMBER
1211 SW FIFTH AVENUE				2113
PORTLAND, OR 97204				
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11/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: ROBERT A. DUNSTAN

Application No. 10/644,432
Technology Center 2100

Mailed: November 26, 2008

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 18, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, APPEALED CLAIMS

Appellant has not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for the following pending claims: 1-4 and 6-35. In the Appeal Brief filed on May 24, 2007 the Appellant affirmatively states that the rejection of claims 11-13, 24-27 and 30-31 are not appealed.

DISCUSSION

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. *See also Manual of Patent Examining Procedure* (MPEP) § 1215.03 (8th ed. Rev. 6, Sept 2007).

CONCLUSION

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- (1) to enter a paper canceling claims 11-13, 24-27 and 30-31; and
- (2) upon entry of the paper, to return the application to the Board for the consideration of appealed claims; and

(3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/SJB

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